

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: ATMOS ENERGY CORPORATION	DOCKET NO. TF-03-67
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**ORDER ASSIGNING TO PRESIDING OFFICER, GRANTING INTERVENTIONS,
GRANTING MOTION TO APPEAR, AND DENYING MOTION TO REJECT**

(Issued October 3, 2003)

On March 10, 2003, Atmos Energy Corporation (Atmos) filed with the Utilities Board (Board) a proposed revision to its current transportation tariff. The proposed tariff was identified as Docket No. TF-03-67. The proposed change would allow Atmos to charge transportation customers for the storage resources used on the transportation customer's behalf for daily balancing purposes. The current tariff gives transportation customers a 10 percent tolerance level for daily imbalances. The change would remove the tolerance level.

On April 8, 2003, the Board issued an order docketing the proposed tariff for further review. The Board indicated that it needed additional time to review the proposed changes and directed Atmos to send notice of the proposed changes to its transportation customers. On June 3, 2003, Atmos filed revisions to the proposed tariff, and on June 4, 2003, Atmos filed copies of the letter it sent to its transportation customers explaining the change proposed in this filing. On July 11, 2003, Atmos

filed a document showing the charges each transportation customer would have paid for the 12-month period ending February 2003 without the 10 percent tolerance.

In response to comments from some of the transportation customers objecting to the proposed tariff, the Board issued an order on August 11, 2003, establishing a deadline for interested persons to intervene in this proceeding. In the order, the Board indicated it would decide what additional procedures to establish after a review of the applications to intervene. The Board also directed persons filing for intervention to state whether they believed there were issues of material fact that would require a hearing.

On August 15, 2003, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed an appearance in this proceeding and a motion to reject the proposed tariff. Consumer Advocate states that it supports the intent of the proposed changes, since under the current tariff provisions system supply customers are effectively subsidizing transportation customers, because system customers pay all of the costs of storage resources that are being utilized to avoid or mitigate pipeline penalties. However, Consumer Advocate suggests the proposed tariff is deficient in two material respects. First, the proposed tariff would appear to allow for the allocation of pipeline imbalance penalties to transportation customers who are not out-of-balance. Second, the proposed tariff eliminates any imbalance tolerance level. Consumer Advocate states that a zero imbalance tolerance level establishes operating conditions for transportation customers that are difficult, if not impossible, to attain.

Consumer Advocate proposes that the Board should reject the proposed tariff and require Atmos to file a new revised tariff addressing the two deficiencies identified by Consumer Advocate. Consumer Advocate argues further that if the proposed tariff is rejected, Atmos should reduce the cost recovered through the purchased gas adjustment (PGA) factor for storage injection and withdrawal costs to avoid, or reduce, the pipeline penalties that are caused by imbalances of certain transportation customers.

On August 15, 2003, Archer Daniel Midland Company (ADM) filed a petition to intervene and alleged the existence of issues of material fact. On August 19, 2003, ADM filed an entry of appearance and request for its counsel to appear. On August 21, 2003, ADM filed corrections to the August 15, 2003, filing, and on August 25, 2003, ADM filed a response to the intervention and motion to reject filed by Consumer Advocate.

In the August 15, 2003, filing ADM sets out what it considers to be the material issues of fact. Those issues are as follows:

1. ADM raises questions concerning the methodology used by Atmos to calculate the additional penalties transportation customers would have paid under the proposed tariff provision.
2. ADM argues that the zero tolerance level for imbalances is unreasonable.

3. ADM states that customers do not have real time access to heat content information and Atmos's proposal does not consider the heat content of gas.

4. ADM argues that customers would require real time metering information to meet the zero tolerance in the proposed tariff.

5. Atmos's proposal does not appear to allow customers to offset imbalances with other customers

6. ADM asserts that the interstate pipeline company serving Atmos provides a 10 percent tolerance for balancing and scheduling and ADM should not be denied this tolerance just because ADM takes service behind the city gate of a distribution utility, Atmos.

7. ADM argues that the current tariff is presumed to be just and reasonable since it was approved by the Board and Atmos has not provided sufficient support for the proposed revision.

8. ADM states that Atmos has provided no cost justification for this proposal.

9. ADM states that the Atmos proposal confuses scheduling with balancing. ADM states that scheduling is an accounting process dealing with capacity assignment and system operation and management. Balancing is a physical reconciliation and settlement process intended to resolve differences between actual inputs to and outputs from a system.

10. ADM points out that Atmos's current tariff does not provide for intra-day changes in nominations.

11. ADM contends that neither system supply customers nor transportation customers should subsidize the other group. Whether and to what extent subsidization occurs is not self-evident and can only be determined as a factual matter.

On September 24, 2003, Atmos filed a reply to ADM's statement of material facts. In the reply, Atmos indicated that it was attempting to clarify misconceptions concerning the proposed tariff. Atmos states that there is a misconception that it will bill the imbalance fees at any opportunity. Atmos states if it is not assessed any additional charges by the interstate pipeline, no scheduling fees will be assessed to transportation customers. Atmos states that for each month, the total allocated scheduling fees will equal the additional charges it incurs.

Atmos states that the proposed tariff is designed to prevent system supply customers from absorbing any costs associated with imbalances caused by transportation customers and to prevent transportation customers from absorbing any costs associated with imbalances caused by system customers. No additional charges will be assessed to transportation customers unless additional charges are assessed to Atmos.

On October 1, 2003, ADM filed a further response to the September 24, 2003, reply of Atmos. In the further response, ADM states that Atmos's reply does not

resolve the issues of material fact raised by ADM. ADM then raises additional questions that it believes to be unresolved.

On August 14, 2003, MidAmerican Energy Company (MidAmerican) filed a petition to intervene in this docket. MidAmerican states that it is a rate-regulated utility providing gas service to Iowa customers and there may be issues of regulatory policy addressed in this docket that may affect MidAmerican's interest. MidAmerican requests to intervene as a matter of right or be granted permissive intervention.

The Board will deny Consumer Advocate's motion to reject and will assign this matter to a presiding officer. There are disputed issues of material fact presented by the parties and the Board is unable to resolve those issues based upon the information filed to date. The Board will assign this matter to a presiding officer for the establishment of a procedural schedule so the parties may present their evidence in support of their positions.

The Board will grant intervention to Consumer Advocate, MidAmerican, and ADM. Each has an interest that should be represented at any hearing on the proposed tariff. The Board will also grant the motion for permission to appear filed by Stuart W. Conrad. Mr. Conrad states that he is an attorney in good standing in the State of Missouri. Mr. Conrad has associated himself with Todd A. Elverson, an attorney licensed to practice law in Iowa, for purposes of service of process and pleadings as required by 199 IAC 7.2(7)"e" and Iowa Supreme Court rule 113.

IT IS THEREFORE ORDERED:

1. Tariff filing TF-03-67 is assigned to Amy Christensen, Administrative Law Judge, to establish a procedural schedule and exercise the authority provided in 199 IAC 7.1(4).
2. Intervention in this proceeding is granted to the Consumer Advocate Division of the Department of Justice, MidAmerican Energy Company, and Archer Daniels Midland Company.
3. Stuart W. Conrad is granted permission to appear as counsel in this proceeding.
4. The motion to reject the proposed tariff filed by Consumer Advocate Division of the Department of Justice on August 15, 2003, is denied.

UTILITIES BOARD

/s/ Diane Munns

/s/ Mark O. Lambert

ATTEST:

/s/ Judi K. Cooper
Executive Secretary

/s/ Elliott Smith

Dated at Des Moines, Iowa, this 3rd day of October, 2003.